



Court Strikes Down Los Angeles General Order 29

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Los Angeles General Order Second Amended No. 29, commonly referred to as "G.O. 29," was an important discovery tool for defendants in asbestos cases. Unfortunately, on Tuesday, December 18, the California Court of Appeal ruled in *Snyder v. A.W. Chesterton* that G.O. 29 was invalid because the requirements of G.O. 29 conflict with the work product doctrine which protects attorneys' impressions, opinions, and conclusions.

G.O. 29 requires a plaintiff to serve a "Case Report" within 8 months of filing the original complaint. The Case Report identifies the sources of asbestos that the plaintiff claims to have been exposed to and when. The Case Report also requires a plaintiff to reveal the names and contact information of all product identification witnesses who support his claims. A defendant may move to be dismissed from a case without prejudice, if they or their product/equipment are not named in the Case Report or if there are no witnesses identified, including the plaintiff, who can support the plaintiff's claims. Plaintiffs are also required to produce documents, including medical records which support their claims. G.O. 29 was an important discovery tool because other general orders limit defendants' ability to conduct discovery.

In the *Snyder* case, G.O. 29 came under attack by the plaintiffs' firm. In sum, they argued that plaintiffs cannot be required to produce information on all product identification witnesses upon whom they intend to rely, because this violates the work product doctrine. Recently, a Los Angeles Superior Court judge dismissed the *Snyder*'s case against certain defendants because plaintiffs failed to identify witnesses and documents to be used against those defendants. The plaintiffs appealed the trial court's decision to dismiss those defendants. In September 2007, the California Court of Appeal, Second Appellate District, Division Two, invalidated G.O. 29, and, therefore, granted the appeal and reversed the trial court's ruling dismissing the defendants. Two of the defendants involved in the initial motion to dismiss have filed a Petition for Review to the California Supreme Court in an effort to reverse the Appellate Court's decision.

Currently, WFB&M's attorneys and other counsel are working together to determine an appropriate response to this case. Considerations include moving to amend other Los Angeles General Orders as a method to obtain necessary discovery as early as



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possible in a case. For example, G.O. 22 only allows defendants to serve ten special interrogatories on plaintiffs, and defendants may seek to substantially increase that number in order to flush out any evidence in plaintiffs' possession regarding their claims against a specific defendant.

WFB&M will continue to keep you updated as progress is made. For more information or to discuss these issues, please feel free to contact Lisa Ackley at lackley@wfbm.com or any WFB&M attorney with whom you have an existing relationship.